

# **EXHIBIT B**



**U.S. Department of Justice**

*United States Attorney  
Eastern District of Texas*

110 N. College, Suite 700  
Tyler, Texas 75702-7237

Phone (903) 590-1400  
Fax (903) 590-1439

May 13, 2021

Mrs. Debbie Mercer-Erwin  
c/o her counsel  
John Coyle  
Ralph de la Garza

Mrs. Kayleigh Moffett  
c/o counsel  
Vicki Behenna

Re: *United States v. Debra Lynn Mercer-Erwin, et al.*, 4:20-CR-  
212, in the United States District Court for the Eastern  
District of Texas, Sherman Division

**AMENDED AGREEMENT RELATING TO PRESERVATION OF ASSETS**

Dear Mrs. Mercer-Erwin and Mrs. Moffett:

You entered into an Asset Preservation Agreement (the "Agreement") with the government on or about April 5, 2021. The Agreement addressed your assets, the assets of Aircraft Guaranty Corporation ("AGC"), and the assets of Wright Brothers Aircraft Title ("WBAT") and established certain terms, obligations, and expectations with respect to maximizing restitution recovery for the crime victims in this criminal case. When you entered into the Agreement, AGC was under contract for a sale that encompassed AGC and WBAT assets alike. The Agreement reflected that pending sale and imposed a series of obligations that were specific to that transaction's successful closing and funding. For a variety of reasons, that sale fell through. To continue the obligations and expectations of the Agreement in this criminal case, and to ensure your compliance with the mandatory cooperation terms of your pretrial release in this criminal case, you both agree to the following updated terms of asset preservation set out in this Amended Agreement.

If you are sentenced and ordered to pay restitution, the United States will be entitled to enforce against all of your non-exempt interests in whatever property you own.

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Because the few assets you own would not be not exempt from enforcement and would be subject to enforcement in their entirety post-judgment, the Government expects you to preserve those assets as if a judgment were already in place. You are fully aware of your upcoming legal obligations and the upcoming debts to be imposed against you under the law. And you both have agreed to cooperate with the Government's immediate efforts to maximize restitution recovery for the crime victims.

The U.S. Attorney's Office ("USAO") has a duty to crime victims to see that they receive full and timely restitution as a matter of law. *See* 18 U.S.C. § 3771(a)(6). To do so, we need to take the steps necessary to maximize the amount of restitution that is actually recovered and paid. The USAO is mandated by Congress to enforce collection of restitution to the fullest extent of the law. 18 U.S.C. §§ 3613(a) and 3664(m).

Therefore, the USAO requests that you take the following steps to preserve assets for application to the future restitution judgments that may be entered against you:

1. **Sale of AGC:** AGC is run exclusively by Mrs. Mercer-Erwin. Mrs. Moffett is an officer and employee of AGC. They both agree to aggressively market AGC and its book of business for sale at fair market value. Once a potential buyer is found, Mrs. Mercer-Erwin must notify the USAO for approval. No contract for sale may be signed without the USAO's approval. No exclusivity-of-negotiation agreement may be signed without the USAO's approval. Once the terms of the contract have been approved by the USAO, Mrs. Mercer-Erwin and Mrs. Moffett will enter into a supplemental agreement with the government concerning the payment of the "to seller" proceeds to the U.S. District Clerk. The USAO may allow some disbursement of sales proceeds to pay reasonable and necessary attorneys' fees if appropriate.
2. **Sale of WBAT Building at 928 SW 107<sup>th</sup> St., Oklahoma City, Oklahoma.**  
The USAO agrees to the sale of the WBAT office building at 928 SW 107<sup>th</sup> Street in Oklahoma City, Oklahoma (the "Property"), under the following conditions:
  - a. Debbie Mercer-Erwin shall immediately notify USAO in writing of any and all offers made on the Property. Mrs. Mercer-Erwin shall not enter into any earnest money contracts or other agreements to sell the Property without the written consent of the USAO.
  - b. Prior to closing, the following must be provided to the USAO:



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- i. Any new appraisals obtained as a result of the sales contract(s) or required by purchaser's lender (s);
    - ii. The HUD-1 closing statement(s) and pay-off documentation for any liens that appear to have priority over the United States;
    - iii. Contract(s) for sale of property which must be approved in writing in advance by the USAO; and
    - iv. Any additional information the USAO deems necessary regarding the background to the sales contract(s) and the terms of the sale(s).
  - c. At Closing: A reputable title company shall be used for closing(s).
  - d. Sales Proceeds: Prior to closing, Debbie Mercer-Erwin and the USAO will address and agree to the destination of the sales proceeds. The USAO may allow some disbursement of sales proceeds to pay reasonable and necessary attorneys' fees if appropriate. Aside from the potential allowance to pay attorneys' fees, the remainder of the net sales proceeds that would otherwise go to Debbie Mercer-Erwin as a result of the sale of the Property will instead be paid to the United States District Clerk to be applied towards Defendant's restitution debt. Those net proceeds will be paid to the United States District Clerk, 1910 ESE Loop 323, No.287, Tyler, Texas, 75701, and will reference Debbie Mercer-Erwin, the style of the case, and the case number. The funds will be held by the Clerk and will be applied to Debbie Mercer-Erwin's restitution debt following entry of judgment and sentencing by the District Court.
  - e. Contingencies: In the event that the Property is not sold prior to sentencing, Mrs. Mercer-Erwin is directed to consult the USAO, and follow its direction regarding possible post-judgment execution on the Property.
3. **Sale of 527 Beach Club Trail C-310, Gulf Shores, Alabama 36542 (the "Beach House")**: Within 30 days of completing necessary repairs from hurricane damage, Debbie Mercer-Erwin must list the Beach House for sale and take immediate steps to sell the Beach House in accordance with the following conditions:
- a. Debbie Mercer-Erwin shall immediately notify USAO in writing of any and all offers made on the Beach House. Defendant shall not enter into

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any earnest money contracts or other agreements to sell the Beach House without the written consent of the USAO.

- b. Prior to closing, the following must be provided to the USAO:
    - i. Any new appraisals obtained as a result of the sales contract(s) or required by purchaser's lender(s);
    - ii. The HUD-1 closing statement(s) and pay-off documentation for any liens that appear to have priority over the United States;
    - iii. Contract(s) for sale of property which must be approved in writing in advance by the USAO; and
    - iv. Any additional information the USAO deems necessary regarding the background to the sales contract(s) and the terms of the sale(s).
  - c. At Closing: A reputable title company shall be used for closing(s). All of the net proceeds that would otherwise go to Debbie Mercer-Erwin as a result of the sale of the Beach House will instead be paid to the United States District Clerk to be applied towards her restitution debt. Those net proceeds will be paid to the United States District Clerk, 1910 ESE Loop 323, No.287, Tyler, Texas, 75701, and will reference Debbie Mercer-Erwin, the style of the case, and the case number.
  - d. Net Proceeds: The funds will be held by the Clerk and will be applied to Defendant's restitution debt following entry of judgment and sentencing by the District Court.
  - e. Contingencies: In the event that the Beach House is not sold prior to sentencing, Defendant is directed to consult the USAO, and follow its direction regarding possible post-judgment execution on the Property.
4. **Sale of Range Rover**: Debbie Mercer-Erwin will sell her 2020 Range Rover VIN # SALGS2RU0LA583123. She shall immediately arrange for the sale of the Range Rover for fair market value. Before finalizing any sale, Mrs. Mercer-Erwin must provide the USAO with the Range Rover's VIN and the amount of the offer so the USAO can determine whether to approve the sale. The sale should not be completed without the USAO's written approval. The sales proceeds will be paid to the U.S. District Clerk to be applied towards Mrs. Mercer-Erwin's upcoming restitution obligations.



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5. **Any other found or returned moneys must be applied in their entirety to the restitution:** If Defendants receive any inheritance, any settlements (including divorce settlement and personal injury settlement), gifts, tax refunds, bonuses, lawsuit awards, and any other receipt of money (to include, but not be limited to, gambling proceeds, lottery winnings, and money found or discovered), they must, within 5 days of receipt, notify the United States Attorney's Office for the Eastern District of Texas. If appropriate, the USAO may direct Defendant(s) to deposit those funds with the United States District Clerk for the Eastern District of Texas. Such assets necessarily include any moneys and/or premiums refunded to Defendants by any insurer in connection with the cancellation, rescission, or termination of any insurance policy.

You are expected to be personally involved in the sale of these assets and taking all reasonable and necessary steps to coordinate with the USAO to receive its blessing. Questions concerning the value of the asset and the sales arrangements will be addressed through counsel to the USAO. Moreover, you will provide information to the USAO concerning the Office and any other assets that may be available for sale and application to the forfeiture judgment.

In the event voluntary sales cannot be successfully accomplished, you agree to not oppose enforcement litigation by the USAO which may include, but is not limited to: seizure of the Office as a substitute asset under 21 U.S.C. § 853(p) and interlocutory sale; prejudgment relief under the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001, *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and/or the Texas Turnover Statute, TEX. CIV. PRAC. & REM. CODE § 31.002.

If this letter accurately represents our agreement and understanding, please sign this letter where indicated below.

Sincerely,

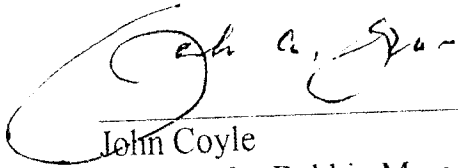
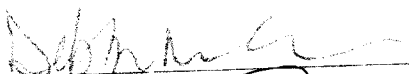
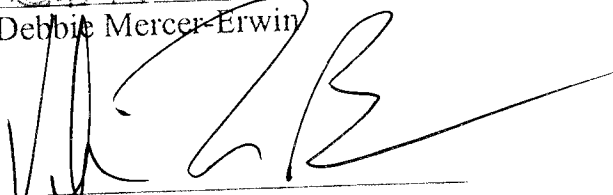
NICHOLAS J. GANJEI  
ACTING UNITED STATES ATTORNEY



Robert Austin Wells  
Assistant United States Attorney

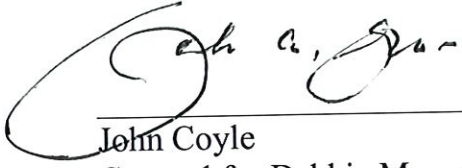
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AGREED:

  
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Counsel for Debbie Mercer-Erwin  
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